

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



November 5, 2021

Will C. Duncan III
Assistant Director
Superfund & Emergency Management Division
Region 9 USEPA
75 Hawthorne Street (Mailcode SFD-6)
San Francisco, CA 94105

RE: NNEPA COMMENTS ON TRONOX ALLOCATION STRATEGY

The Navajo Nation Environmental Protection Agency (NNEPA) and its Navajo Superfund Program submits the following comments and questions to the Tronox Navajo Area Uranium Mines and Settlement Fund Allocation Strategy as presented on October 13 and 21, 2021. For ease of reference, comments and/or questions directed toward specific information in the presentation are included in the table below, and more general comments are summarized at the end of this memorandum.

PowerPoint Slide Number, Other Identifier	NNEPA Comment and/or Question
6, January 2021 Prioritization List	How was the Prioritization List developed? Please indicate if the Navajo Nation was involved, as well as the extent of that involvement.
6, EPA to complete Final Resource Allocation	The Navajo Nation recognizes USEPA is to determine the Allocation Strategy in accordance with the terms of the Settlement. The Navajo Nation respectfully requests that the USEPA seriously considers the Nation's comments and questions before submitting the Proposed Allocation Strategy.
7, Other Financially Viable PRPs Exist	The Navajo Nation is concerned that certain identified viable PRPs will not yield successful negotiations based on past actions and comments. For example, the Department of Energy has previously stated it does not intend to remediate former DRUM sites. How might this reluctance affect negotiations, and what is USEPA's plan to assure the Navajo Nation that all mines under the Settlement will be remediated?
10, Intramural and Extramural	How are intramural and extramural costs defined?
10, Options used for Estimates	Why was the Off-Navajo Nation option selected for estimates? Is the Off-Navajo Nation option different than the regional repositories option selected for R6/New Mexico estimates?
11, Capital Costs Non-Tronox Share	Are the "Capital Costs Non-Tronox Share" amounts identified those that will be sought through negotiations with other viable PRPs? Are

THE NAVAJO NATION

JONATHAN NEZ | PRESIDENT MYRON LIZER | VICE PRESIDENT



PowerPoint Slide Number, Other Identifier	NNEPA Comment and/or Question
	these estimates based on the same options identified on slide 10?

With respect to the other viable PRPs, are there certain entities contemplated to account for more of the non-Tronox cost estimates? That is, will the amounts sought to bridge the Tronox Settlement funding gaps be pursued equally? Or will it be site/location specific? The Nation would like to reserve its right to comment on future estimates and values when the viable PRPs have not only been identified, but their contributions have been secured.

The Navajo Nation is also concerned that the lack of consideration for all remedy options may not accurately capture the identified deficiency of the Tronox Settlement Funds. Further, the Nation is concerned that proceeding with an allocation strategy before a remedy is selected again places the Nation in a position to not have its sites successfully remediated, perpetuating the devastating legacy of uranium mining across the Navajo Nation and leaving the Nation to be second to the State of New Mexico.

Finally, in the event that the other viable PRPs are not in fact viable or significant hurdles are faced in securing funds to cover the Non-Tronox PRP share, what funding sources are available to ensure the successful remediation all of the sites on the Navajo Nation?

Please continue to work with the Navajo Nation in all matters relating to the Tronox funding. Please contact Dariel Yazzie at (928)871-7325/darielyazzie@navajo-nsn.gov and Valinda Shirley at (928)871-7692/Valinda.shirley@navajo-nsn.gov. Thank you.

Sincerely,

A blue ink signature of Dariel Yazzie, consisting of stylized loops and a long horizontal stroke.

Dariel Yazzie, Program Environmental Supervisor
Navajo Superfund - NNEPA